

FROM W&C 20FLOOR

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REMARKS

I. Petition for Extension of Time

Applicants herewith petition the Commissioner for Patents to extend the time for response to the Office Action mailed February 1, 2007 for one month from March 1, 2007 to April 1, 2007. Authorization is given to charge the extension of time fee of \$120.00 (37 C.F.R. §1.136 and §1.17) to Deposit Account No. 23-1703. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

II. Restriction/Election

Claims 1-12, 14 and 15 are pending. It is alleged that the application contains the following groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1:

Group I: claims 1-12 directed to a compound/composition and process for making;

Group II: claim 14 directed to multiple uses; and

Group III: claim 15 directed to the claimed composition further comprising an additional active.

For prosecution purposes, Applicants elect Group I. At page 4 of the Office Action, the Examiner writes that Applicants are requested to elect one method of use, i.e., a specific disease, in the event that Group I is elected. In response to the Examiner's request, Applicants elect the inhibition of gastric acid secretion (page 10, line 7).

III. Traversal of the Restriction Requirement

Applicants do not traverse the restriction with respect to Group III. However, Applicants traverse the restriction with respect to Groups I and II.

As correctly noted by the Examiner, 37 C.F.R. §1.475(b)(3) provides that a national stage application will be considered to have unity of invention if the claims are directed to a product, a process for manufacture of the product and a use of the product.

The Examiner alleges that Groups I and II lack unity of invention because Claim 14, i.e., Group II, is drawn to multiple uses. Applicants strongly disagree with the Examiner's rationale and logic.

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A. Claim 14 is expressly directed to a single therapeutic use.

Claim 14 is directed to a single therapeutic use, i.e., administration of the claimed compound for the treatment of a gastric acid related condition. Thus, the express language of claim 14 is limited to a single use and corresponds to the language of 37 C.F.R. §1.475(b)(3), i.e., "a use of the product". Granted, there is more than one indication falling with the class or category of gastric related condition, e.g., inhibition of gastric acid secretion, efflux esophagitis, gastritis, etc.. However, there is still just one use the claimed compound: treatment of a gastric acid related condition.

B. Groups I and II share the same special technical feature.

Moreover, method of treatment claim 14 is dependent on the administration of the compound of claims 1-6. Thus, Groups I and II share the same special technical feature, i.e., the compounds of claims 1-6 (Group I) and the administration of the compounds of claims 1-6 (Group II). Therefore, the examination of method of treatment claim 14 in the same application as compound claims 1-6 appears to be required by PCT Rules 13.1 and 13.2.

C. Rejoinder of claim 14 would eliminate unnecessary waste of Office and Applicant resources.

Furthermore, the rejoinder of claim 14 would be economically prudent for both the Office and Applicants. Upon the rejoinder and examination of claim 14 in the present application, the Examiner is free to reject or object to claim 14 under 35 U.S.C. §§102, 103 and/or 112. But, in the first instance, claim 14 should be rejoined and examined in this application with the related compound claims which are administered in accordance with the method of claim 14.

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CONCLUSION

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Applicants submit that the restriction of Groups I and II violates PCT Rules 13.1 and 13.2. The claims of Groups I and II share the same special technical feature. Withdrawal of the restriction requirement with regard to Group II and rejoinder and examination of claim 14 in the subject application is requested.

Any fees due in connection with this response should be charged to Deposit Account No. 23-1703.

Dated: March 19 2007

Respectfully submitted,



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